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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-929]

Small Diameter Graphite Electrodes from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On March 6, 2012, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on small diameter graphite electrodes (SDGEs) from the People's Republic of China (PRC). The review covers 25 companies for the period February 1, 2010, through January 31, 2011.

The final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: [insert date of publication in the *Federal Register*].

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SUPPLEMENTARY INFORMATION:

Background

On March 6, 2012, the Department published *Small Diameter Graphite Electrodes from the People's Republic of China: Preliminary Results and Partial Rescission of Administrative Review*, 77 FR 13284 (March 6, 2012) (*Preliminary Results*). The administrative review covers

Fushun Jinly Petrochemical Carbon Co., Ltd. (Fushun Jinly), Xinghe County Muzi Carbon Co., Ltd. (Muzi Carbon), Sichuan Guanghan Shida Carbon Co., Ltd. (Shida Carbon), Jilin Carbon Import and Export Company (Jilin Carbon), the Fangda Group (comprised of five collapsed companies, Beijing Fangda Carbon Tech Co., Ltd., Chengdu Rongguang Carbon Co., Ltd., Fangda Carbon New Material Co., Ltd., Fushun Carbon Co., Ltd., and Hefei Carbon Co., Ltd.), Dechang Shida Carbon Co., Ltd., Fushun Carbon Plant, Fushun Jinli Petrochemical Carbon Co., Ltd., Guanghan Shida Carbon Co., Ltd., Jilin Carbon Graphite Material Co., Ltd., Lanzhou Hailong New Material Co., Liaoning Fangda Group Industrial Co., Ltd., Shida Carbon Group, Sichuan Dechang Shida Co., Ltd., Sichuan Shida Trading Co., Ltd., Sinosteel Anhui Co., Ltd., Sinosteel Corp., Sinosteel Jilin Carbon Co., Ltd., Sinosteel Jilin Carbon Imp. & Exp. Co., Ltd., Sinosteel Sichuan Co., Ltd., and Xinghe County Muzi Carbon Plant. The period of review (POR) is February 1, 2010, through January 31, 2011.

On April 5, 2012, and April 13, 2012, we received case and rebuttal briefs, respectively, from Fushun Jinly, the remaining participating respondent company selected for individual examination, and the petitioners, SGL Carbon LLC and Superior Graphite Co. No interested party requested a hearing.

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by the order includes all small diameter graphite electrodes of any length, whether or not finished, of a kind used in furnaces, with a nominal or actual diameter of 400 millimeters (16 inches) or less, and whether or not attached to a graphite pin joining system or any other type of joining system or hardware. The merchandise covered by the order

also includes graphite pin joining systems for small diameter graphite electrodes, of any length, whether or not finished, of a kind used in furnaces, and whether or not the graphite pin joining system is attached to, sold with, or sold separately from, the small diameter graphite electrode. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes are most commonly used in primary melting, ladle metallurgy, and specialty furnace applications in industries including foundries, smelters, and steel refining operations. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 8545.11.0000. The HTSUS number is provided for convenience and customs purposes, but the written description of the scope is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision (I&D) Memorandum which is hereby adopted by this notice. A list of the issues raised is attached to this notice as an appendix. The I&D Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the I&D Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/>. The signed I&D Memorandum and the electronic versions of the I&D Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of the comments received from interested parties, we made a

change to the margin calculations for Fushun Jinly. Specifically, for the final results, we have revised the calculation of the surrogate value for steel strip packing material.¹

Non-Market-Economy Country Status

In the *Preliminary Results*, we treated the PRC as a non-market economy (NME) country. *See Preliminary Results*, 77 FR at 13286. No interested party commented on our designation of the PRC as an NME country. Therefore, for the final results of review, we have continued to treat the PRC as an NME country for purposes of determining normal value in accordance with section 773(c) of the Act.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

In the *Preliminary Results*, we found that the Fangda Group, Fushun Jinly, Muzi Carbon, and Shida Carbon demonstrated their eligibility for separate rates. *See Preliminary Results*, 77 FR at 13286-88. We received no comments from interested parties on this finding. Therefore, in these final results, we continue to find that the evidence placed on the record of this review by the Fangda Group, Fushun Jinly, Muzi Carbon, and Shida Carbon demonstrates an absence of government control, both in law and in fact, with respect to these companies' exports of the

¹ See I&D Memorandum at Comment 5. *See also* Memorandum to the File, entitled "Administrative Review of the Antidumping Duty Order on Small Diameter Graphite Electrodes from the People's Republic of China: Final Results Analysis Memorandum for Fushun Jinly Petrochemical Carbon Co., Ltd.," dated concurrently with this notice.

subject merchandise. Thus, we have determined that the Fangda Group, Fushun Jinly, Muzi Carbon, and Shida Carbon are eligible to receive a separate rate.

Rate for Non-Selected Companies

We selected Fushun Jinly and Jilin Carbon as mandatory respondents in this review. *See Preliminary Results*, 77 FR at 13285. The Fangda Group, Muzi Carbon, and Shida Carbon are exporters of SDGEs from the PRC that demonstrated their eligibility for a separate rate, as discussed above, but were not selected for individual examination in this review. The statute and the Department's regulations do not directly address the establishment of a rate to be applied to companies not selected for individual examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any zero or *de minimis* margins or any margins based entirely on facts available. Section 735(c)(5)(B) of the Act also provides that, where all margins are zero rates, *de minimis* rates, or rates based entirely on facts available, we may use "any reasonable method" for assigning the rate to non-selected respondents. In this instance, we have calculated a rate above *de minimis* for Fushun Jinly.

Consistent with the Department's practice, we have assigned the rate calculated for Fushun Jinly to the Fangda Group, Muzi Carbon, and Shida Carbon. Because the rate calculated for Fushun Jinly has changed since the *Preliminary Results*, the margin assigned to the Fangda Group, Muzi Carbon, and Shida Carbon has also changed accordingly. As explained in the section below entitled "The PRC-Wide Entity," because Jilin Carbon did not participate in this

administrative review, we did not grant it a separate rate and considered it part of the PRC-wide entity.

The PRC-Wide Entity

As explained in the *Preliminary Results*, 16 companies under review did not apply for a separate rate. *See Preliminary Results*, 77 FR at 13288. As such, they have not demonstrated their eligibility for separate rates in this administrative review. *Id.* Additionally, none of these companies notified the Department that they had no shipments of subject merchandise during the POR. In the *Preliminary Results* we determined that, because there were exports of merchandise under review from PRC exporters that did not demonstrate their eligibility for separate rates, they should be treated as part of the PRC-wide entity. Additionally, as stated in the *Preliminary Results*, because Jilin Carbon did not participate in this administrative review, we preliminarily did not grant it a separate rate and also considered it part of the PRC-wide entity. *See Preliminary Results*, 77 FR at 13288-89. We have not received any information since the *Preliminary Results* that provides a basis for reconsidering our preliminary determination with respect to these 17 companies. Therefore, the Department continues to find that these 17 companies should be treated as part of the PRC-wide entity and subject to the PRC-wide entity rate.

In accordance with section 776(a) and (b) of the Act and as explained in more detail in the *Preliminary Results*, we determined that the PRC-wide entity's rate should be based on total adverse facts available (AFA). *See Preliminary Results*, 77 FR at 13289. No party has commented on the use of a total AFA rate for the PRC-wide entity. Accordingly, the Department continues to assign an AFA rate to the PRC-wide entity of 159.64 percent. This is the highest percent margin alleged in the petition, the PRC-wide rate determined in the

investigation, and the rate currently applicable to the PRC-wide entity.²

As explained further in the *Preliminary Results*, the Department considers that rate corroborated pursuant to section 776(c) of the Act based upon our pre-initiation analysis of the adequacy and accuracy of the information in the Petition. *See Preliminary Results*, 77 FR at 13289-90. No party commented on this.

Final Results of Review

The Department has determined that the following final dumping margins exist for the period February 1, 2010, through January 31, 2011:

<u>Company</u>	<u>Margin (percent)</u>
Fushun Jinly Petrochemical Carbon Co., Ltd.	36.79
Xinghe County Muzi Carbon Co., Ltd.	36.79
Sichuan Guanghan Shida Carbon Co., Ltd.	36.79
Beijing Fangda Carbon Tech Co., Ltd.	36.79
Chengdu Rongguang Carbon Co., Ltd.	36.79
Fangda Carbon New Material Co., Ltd.	36.79
Fushun Carbon Co., Ltd.	36.79
Hefei Carbon Co., Ltd.	36.79
PRC-wide entity [†]	159.64

[†] The PRC-wide entity includes the following companies: Dechang Shida Carbon Co., Ltd., Fushun Carbon Plant, Jilin Carbon Graphite Material Co., Ltd., Jilin Carbon Import and Export Company, Lanzhou Hailong New Material Co., Liaoning Fangda Group Industrial Co., Ltd., Shida Carbon Group, Sichuan Dechang Shida Co., Ltd., Sichuan Shida Trading Co., Ltd., Sinosteel Anhui Co., Ltd., Sinosteel Corp., Sinosteel Jilin

² See *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 2049, 2054-55 (January 14, 2009).

Carbon Co., Ltd., Sinosteel Jilin Carbon Imp. & Exp. Co., Ltd., and Sinosteel Sichuan Co., Ltd.³

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For assessment purposes, we calculated exporter/importer- (or customer-) specific assessment rates for merchandise subject to this review consistent with 19 CFR 351.212(b)(1). We calculated an *ad valorem* rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. None of these rates was *de minimis* (see 19 CFR 351.106(c)(2)). Thus, we will direct CBP to assess the resulting *ad valorem* rates against the entered customs values for the subject merchandise. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide entity rate shown above.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as

³ In the *Preliminary Results* we stated that Fushun Jinli Petrochemical Carbon Co., Ltd. (Fushun Jinli), Guanghan Shida Carbon Co., Ltd. (Guanghan Shida Carbon), and Xinghe County Muzi Carbon Plant (Muzi Carbon Plant) are part of the PRC-Wide entity and are not entitled to a separate rate. See *Preliminary Results*, 77 FR at 13287, FN 17. Upon further examination of record evidence we find that each of the following sets of companies are the same entity, respectively: Fushun Jinli and Fushun Jinly; Guanghan Shida Carbon and Shida Carbon; Muzi Carbon Plant and Muzi Carbon. Accordingly, Fushun Jinli, Guanghan Shida Carbon, and Muzi Carbon Plant are not part of the PRC-wide entity and the cash deposit and assessment rates that we establish for Fushun Jinly, Shida Carbon, and Muzi Carbon apply to any entries made by Fushun Jinli, Guanghan Shida Carbon, and Muzi Carbon Plant.

provided by section 751(a)(2)(C) of the Act: (1) for the Fangda Group, Fushun Jinly, Muzi Carbon, and Shida Carbon the cash deposit rates will be the margins listed above; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 159.64 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is

subject to sanction.

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

We are issuing and publishing the final results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

July 3, 2012 _____
Date

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